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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* NEWTON B. WHITE, JR.

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Appeal 2007-2251  
Application 09/381,742  
Technology Center 3600

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Decided<sup>1</sup>: March 19, 2008

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Before HUBERT C. LORIN, ANTON W. FETTING, and  
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Newton B. White, Jr. (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 169-208.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b) (2002).

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<sup>1</sup> An oral hearing was conducted on December 19, 2007.

## SUMMARY OF DECISION

We AFFIRM-IN-PART.<sup>3</sup>

### THE INVENTION

The Appellant's claimed invention "relates generally to using an offer matching system to collect and to execute binding offers to buy and to sell a traded item." (Specification 1:9-10).

Claim 169, reproduced below, is illustrative of the subject matter on appeal.

169. A method for operating an offer matching or information publishing system (which system include without limitation a computer apparatus) for a traded item comprising the following steps:

- (a) associating a first offer to buy or to sell the traded item with a first identifier;
- (b) receiving a request for information, where;
  - (i) the request includes the first identifier and
  - (ii) the request is received in a manner that does not imply that the request is from a person entitled to receive nonpublic information concerning the first offer; and

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<sup>2</sup> The Appeal Brief indicates that claims 1-51, 56-64, 141, 148-162, and 167 have been withdrawn; claims 52-55, 124-128, 130-136, 142-147, and 209-214 have been cancelled; and, claims 65-123, 129, 137-140, 163-166, and 168 have been allowed. App. Br. 2-4.

<sup>3</sup> Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed Mar. 19, 2004), the Examiner's Answer ("Answer," mailed Apr. 24, 2006), and the Reply Brief ("Reply Br.," filed Nov. 22, 2004).

(c) in response to the request, sending a reply comprising a data item that concerns the first offer.

### THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Adams	US 3,573,747	Apr. 6, 1971
Hauser	WO 97/25801	Jul. 17, 1997

The following rejections are before us for review:

1. Claims 169-171, 173-177, 179, and 182-208 are rejected as being directed to non-statutory subject matter in violation of 35 U.S.C. § 101.
2. Claims 169, 173, 177-179, 182, 184, 185, 187, 191, 197, 203, and 204 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.
3. Claims 169-176, 179, 181, and 184 are rejected under 35 U.S.C. § 102(b) as being anticipated by Adams.
4. Claims 180, 191-195, 197, 198, and 200-202 are rejected under 35 U.S.C. § 103(a) as unpatentable over Adams.
5. Claims 177 and 178 are rejected under 35 U.S.C. § 103(a) as unpatentable over Adams in view of Hauser.

### ISSUES

The first issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 169-171, 173-177, 179, 182-208 as being directed to non-statutory subject matter. This issue turns on whether a “data

stream” (claim 196) is patentable subject matter and whether the claimed invention is directed to non-statutory subject matter given that operates on a computer (claims 169-171, 173-177, 179, 182-195, and 197-208).

The second issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 169, 173, 177-179, 182, 184, 185, 187, 191, 197, 203, and 204 as being indefinite. There are two aspects to this issue: (a) whether claims 177 and 178 are confusing for not clearly indicating whether a digital signature is included or not and (b) whether the recitation “includes without limitation a computer apparatus” in claims 169, 173, 179, 182, 184, 185, 187, 191, 197, 203, and 204 renders these claims confusing.

The third issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 169-176, 179, 181, and 184 as being anticipated by Adams.

The fourth issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 180, 191-195, 197, 198, and 200-202 as unpatentable over Adams.

The fifth issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 177 and 178 as unpatentable over Adams and Hauser.

## DISCUSSION

*Rejection of claims 169-171, 173-177, 179, 182-208 as being directed to non-statutory subject matter in violation of 35 U.S.C. § 101.*

*Claim 196*

Claim 196 reads as follows:

196. A data stream comprising a plurality of data packets, each of the data packets comprising a respective identifier and a respective data item, wherein:

- each respective identifier is associated with a respective offer,
- and each
- respective identifier not associated with any other offer,
- an offer matching system has previously received a description of each
- respective offer from a respective participant,
- each respective participant possesses information which discloses that a
- respective related person satisfies a respective condition selected from the group consisting of:
  - the respective offer is for the benefit of the respective related person,
  - the respective offer is for the account of the respective related person,
  - the respective related person made an investment decision to make the respective offer,
  - the respective related person has a financial interest in the respective offer,
  - the respective related person is financially responsible (as principal, guarantor or otherwise) for the respective offer,
  - the respective related person is financially responsible (as principal, guarantor or otherwise) for a trade arising out of the respective offer,
  - the respective related person is acting as an agent with respect to the respective offer,
  - the respective related person is acting as a principal with respect to the respective offer,

the offer matching system possesses information which discloses for each respective offer the respective identifier associated with the respective offer,  
each respective data item concerns the respective offer associated with the respective identifier,  
a set of rules that govern the operation of the offer matching system permit the offer matching system to disclose publicly that the respective data items concern the respective offers and  
the set of rules does not permit the offer matching system to disclose publicly that the respective related persons satisfy the respective conditions.

The Examiner argued, in part, that the claimed invention “recites non-functional descriptive material, i.e., mere data.” Answer 3. The Appellant pointed out that the claim requires, among other things, data packets. App. Br. 15.

Claim 196 is directed to a “data stream.” A stream of data is a type of signal. This type of signal is not a “process, machine, manufacture, or composition of matter,” the four categories of subject matter patentable under 35 U.S.C. § 101. “[T]hus, such a signal cannot be patentable subject matter.” *In re Nuijten*, 500 F.3d 1346, 1357 (Fed. Cir. 2007).

The rejection of claim 196 is affirmed.

*Claims 169-171, 173-177, 179, 182-195, and 197-208*

The Examiner argued that the claimed subject matter “is not implemented with any specific automated computer apparatus.” Answer 3. The Examiner also

argued that “the claims are not in the “technological” or “useful” arts, and the claims do not affect or define the technology.” Answer 3-4. This latter rationale is no longer applicable. *Ex parte Lundgren*, 76 USPQ2d 1385, 1388 (BPAI 2004) (precedential) (“there is currently no judicially recognized separate “technological arts” test to determine patent eligible subject matter under §101.”)

The Appellant argued, in part, that the “obvious meaning of the phrase ‘system (which system include without limitation a computer apparatus)’ is that the system referred to must contain a computer apparatus but is not limited solely to systems that contain only a computer apparatus.” App. Br. 18.

We will not sustain the rejection as to these claims.

The Appellant’s argument is specifically directed to independent method claims 169, 173, 179, 182, 184, 185, 187, 191, 197, 203, and 204, and the claims which depend on them, all of which contain the phrase “system (which system include without limitation a computer apparatus)” in their preambles. In light of this language, the claimed processes are methods for operating an offer matching or information publishing system limited such that they use, at a minimum, a computer apparatus. *Comiskey* established that “the application of human intelligence to the solution of practical problems is not in and of itself patentable.” *In re Comiskey*, 499 F.3d 1365, 1379 (Fed. Cir. 2007).

The Supreme Court has reviewed process patents reciting algorithms or abstract concepts in claims directed to industrial processes. In that context, the Supreme Court has held that a claim reciting an algorithm or abstract idea can state statutory subject matter only if, as employed in the process, it is



embodied in, operates on, transforms, or otherwise involves another class of statutory subject matter, i.e., a machine, manufacture, or composition of matter. 35 U.S.C. § 101.

*Id.* at 1376. However, the instant claims are arguably directed to statutory subject matter because the steps operate on another class of statutory subject matter, i.e., the computer apparatus. “When an unpatentable mental process is combined with a machine, the combination may produce patentable subject matter ....” *Id.* at 1379. In that regard, the Examiner has not explained why the combination would not produce patentable subject matter. We reach the same conclusion as to independent method claim 177 which, though the argued-over “computer” language is not included, requires a system involving sending a reply comprising a “data item” and “digital signature.” These objects suggest and imply that at least step (c) of the claimed method is performed by a computer. A prima facie case of unpatentability under 35 U.S.C. § 101 for the claimed subject matter has not been established

*Rejection of claims 169, 173, 177-179, 182, 184, 185, 187, 191, 197, 203, and 204 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.*

#### A. Principles of Law

The test for compliance with the second paragraph of § 112 is whether the claims set out and circumscribe a particular area with a reasonable degree of precision and particularity when read in light of the application disclosure as they would be interpreted by one of ordinary skill in the art. *In re Moore*, 439 F.2d 1232, 1235 (CCPA 1971).

B. Analysis

*Claims 177-178*

The Examiner argues that claims 177 and 178 are confusing for not clearly indicating whether a digital signature is included or not. Answer 4. We agree.

Claim 177 (and likewise claim 178) call for sending a reply that comprises a digital signature which is “sent to the participant in a manner that is secured *without relying upon* the digital signature.” (Emphasis added.) The language of the claims describes, on the one hand, sending a reply with a digital signature and yet, on the other hand, the reply may be sent without relying on the digital signature, suggesting the reply may be sent without a digital signature. The claims are insolubly ambiguous. *Halliburton Energy Services, Inc. v. M-I LLC*, 514 F.3d 1244, 1249 (Fed. Cir. 2008).

The Appellant argues that the claims require the reply to comprise a digital signature but that the reply is *secured* without relying on a digital signature. App. Br. 18-19 and Reply Br. 6-8. The Appellant cites the Specification (p. 29, l. 25-p. 30, l. 8) in support of reading “secured” to mean, for example, encryption. We are not persuaded by this argument. The Appellant has not pointed to anything in the Specification which would lead one of ordinary skill in the art to read the term “secured” as meaning something different than simply providing a digital signature. The passage at p. 29, l. 25-p. 30, l. 8 of the Specification says nothing about encryption. In fact, the passage describes the *possibility* of providing a digital signature (see p. 30, ll. 3-4: “The offer matching system can provide ... a digital signature ... .”). The claims do not describe the *possibility* of providing a

digital signature. They require (step (c)(1)(B)) and then not require (step (c)( 2)) a digital signature. Given these contradictory requirements, a person of ordinary skill in the art could not determine the bounds of the claims. They are not amenable to construction. *Id.*

*Claims 169, 173, 179, 182, 184, 185, 187, 191, 197, 203, and 204*

We will not sustain the rejection under the second ¶ of §112 as to these claims.

The Examiner argues that the recitation “includes without limitation a computer apparatus” in claims 169, 173, 179, 182, 184, 185, 187, 191, 197, 203, and 204 renders these claims confusing. We disagree. To one of ordinary skill in the art, this recitation indicates that the claimed subject matter requires the inclusion of a computer apparatus, at a minimum. While the recitation suggests that other objects can also be included within the scope of the claims, this does not render the claimed subject matter indefinite. Just because a term (i.e., “without limitation”) is broad, does not mean it is indefinite. *In re Borkowski*, 422 F.2d 904, 908 (1970).

However, we observe that the recitation at issue is enclosed within parentheses. This sort of claim drafting is discouraged as it may be suggest that the Appellant intended the parenthetical information to be viewed simply as supplementary information. Here the Appellant has made it clear on the record that the information within the parentheses is to be viewed as an express limitation to

the claimed subject matter. See transcript of the oral hearing.<sup>4</sup> Nevertheless, we suggest the Appellant amend the claims to remove the parentheses.

*Rejection of claims 169-176, 179, 181, and 184 are rejected under 35 U.S.C. § 102(b) as being anticipated by Adams.*

A. Findings of Fact

We find that the following enumerated findings are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Claims 169-176 require a request for information to include a first identifier associated with an offer to buy or sell a traded item.
2. Adams relates to an apparatus and method for anonymously buying and selling securities between subscribers.

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<sup>4</sup> E.g., p. 11:

JUDGE FETTING: ... to me the phrase "without limitation" reads out potentially the computer apparatus. You are saying "includes without limitation." So doesn't "without limitation" suggest the possibility of not including it?

MR. OPPEDahl: No. No. "Without limitation" means other things could be included as well. It could be a computer apparatus plus a ping-pong ball. It could be a computer apparatus plus a paper clip. "Includes without limitation," meaning, yes, computer apparatus, but we're not limiting it to a computer apparatus.

There could also be a power plug or a battery or something else.

3. The Examiner argued that Adams describes “[a]ssociating a first offer to buy or to sell the traded item with a first identifier (col. 10, lines 1-15 and col. 12, lines 1-9); receiving request for information where the request includes the first identifier (col. 10, lines 1-15 and col. 12, lines 1-9), ... .” Answer 5.
4. Col. 10, lines 1-15 of Adams reads as follows:

By way of further example, assume that a subscriber B wishes to Reply to the Book & Broadcast of subscriber A to sell from 10,000 to 20,000 shares of X Corporation at 26½. Assume as above that the offer by subscriber A has been given an offer number 20,652 and that subscriber B’s reply to the offer of subscriber A is an offer to buy 15,000 shares of X Corporation at 25½. Referring to FIG. 2, subscriber B would initiate his reply (i.e., an offer to buy X Corporation stock) by striking key 184 in the REPLY shift. Subscriber B next strikes keys 208 in the 1 shift, 166 in the 7 shift, and 188 in the 5 shift, thus keying the security code for the X Corporation. Next subscriber B strikes the space bar 219 and then keys 210 in the 2 shift, 206 in the 0 shift, 188 in the 5 shift, 190 in the 6 shift and 210 in the 2 shift, thus keying in the code number given to the original offer of subscriber A to which this Reply is directed.

5. Col. 12, lines 1-9 of Adams reads as follows:

These reference numbers enable the system to achieve its goal of anonymity among the various subscribers as well as fairness in effectuating the various transactions. Offers from all subscribers are given offer reference numbers consecutively from 10,000-99,999. This number is permanently assigned to an offer until it is removed from the Book wherein said offer has been listed. Replies from all subscribers are assigned reply reference numbers from 1-9,999.

6. Claims 179 and 181 require “publishing ... a data packet that comprises the first identifier and a data item concerning the first offer, where the data item is not the first identifier.”
7. The Examiner argues: “With respect to claims 179 and 181, Adams further teaches publishing the information (col. 12, lines 51-62).” Answer 6.
8. Col. 12, lines 51-62 of Adams reads as follows:

Finally, the preferred embodiment of the present invention has a bank console 234 comprising a printer/receiving unit 236. The bank console 234 receives data from the computer 130 via line 238. This data comprises a summary of the transaction within the system for a given day and is sent via line 238 to the bank console 234 at the end of each day. This enables the banking institution, wherein said bank console 234 is located, to perform the necessary financial dealings associated with each transaction. A remote batch data processing facility is provided by the computer 130 which stores the data for each transaction and prepares an appropriate summary therefrom.

9. Claim 184 requires “storing in the offer matching system an association among a first participant and a first monitor, where the first monitor is not the first participant.”
10. The Examiner argues: “With respect to claim 184, the claim further recite and Adams further teaches the offer matching system monitoring the trade (col. 2, lines 73-, col. 3, lines 1-10).” Answer 6.
11. Col. 2, line 73 to col. 3, line 10 of Adams reads as follows:

Another subprogram of the system allows the originator of the offer, upon receipt of the response, to enter into an exchange of bids,

offers, and other negotiating messages. Such an exchange between two subscribers concerning a single security is called a “Colloquy”. In a Colloquy the initiative passes automatically from one subscriber to the other, with the system keeping track of the negotiations and assuring that both subscribers are continuously aware of the status of the negotiation. As is true with every subprogram within the system, every message is fully documented by being produced simultaneously on the printer/receiving unit of both subscribers and absolute anonymity is maintained.

#### B. Principles of Law

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 827 (1987).

#### C. Analysis

##### *Claims 169-176*

The Examiner found that Adams discloses all the limitations of the claimed method. Answer 5.

The Appellant argued, in part, that “Adams fails to disclose sending and receiving a *request* that includes an identifier associated with an offer.” App. Br. 20. (Emphasis original.) See also Reply Br. 10.

Claims 169-176, 179, and 181 all require a request for information with an identifier. FF 1. The Examiner pointed to col. 10, lines 1-15 and col. 12, lines 1-9

of Adams as showing a request including an identifier. FF 3. We have carefully reviewed the indicated passages in Adams but fail to find an express disclosure of a request for information with an identifier. See FF 4-5.

We note the Examiner's explanation, in response to the Appellant's argument, to the effect that Adams must necessarily teach an identifier with the request.

Appellant argues that Adams does not teach sending or receiving a request that includes an identifier associated with an offer. The examiner respectfully disagrees with Applicant because in Adams (col. 10, lines 4-[ ]), the identifier "20,562" was given to Subscriber A in order to identify his or her offer (as admitted by Appellant on page 20 of the brief) therefore Subscriber B will have to use the same identifier to request information on the identified offer. A counteroffer is a request or a return offer. In Adams subscriber A is given an offer identifier to identify the offer, the same offer identifier is used by Subscriber B to respond to the offer. Therefore Adams satisfies the claimed limitation of receiving a request that includes an identifier associated with the offer.

Answer 13. The Examiner appears to be making an inherency argument. However, we are not persuaded that one of ordinary skill in the art practicing Adams' method would necessarily require "Subscriber B ... to use the same identifier to request information on the identified offer [as that used by Subscriber A]." *Id.* There is no evidence that "the same offer identifier is used by Subscriber B to respond to the offer." *Id.* Moreover, as the Appellant has argued, the question is not whether Adams teaches an identifier associated with an offer, but whether Adams teaches a request for information including an identifier *associated* with the offer, as claimed. App. Br. 21. There must be no difference between the claimed invention



and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991). When relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. *See Ex parte Levy*, 17 USPQ2d 1461, 1464 (BPAI 1990). Under principles of inherency, when a reference is silent about an asserted inherent characteristic, it must be clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991). We are not persuaded that one of ordinary skill in the art reading Adams would recognize that an identifier of the type claimed is necessarily present. Accordingly, we do not find that a prima facie case of anticipation of the invention of these claims over Adams has been established.

*Claims 179 and 181*

Claims 179 and 181 require publishing a data packet comprising a first identifier and a data item concerning the first offer, where the data item is not the first identifier. FF 6. Neither the disclosure in Adams that the Examiner relied upon (FF 7), nor the Examiner's explanation in light of it (FF 8), addresses this claimed limitation. Accordingly, we do not find that a prima facie case of anticipation of the invention over Adams has been established.

*Claim 184*

Claim 184 requires “storing in the offer matching system an association among a first participant and a first monitor, where the first monitor is not the first participant.” FF 9. Neither the disclosure in Adams that the Examiner relied upon (FF 11), nor the Examiner’s explanation in light of it (FF 10), addresses this claimed limitation. Accordingly, we do not find that a prima facie case of anticipation of the invention over Adams has been established.

*Rejection of claims 180, 191-195, 197, 198, and 200-202 are rejected under 35 U.S.C. § 103(a) as unpatentable over Adams.*

A. Principles of Law

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S.Ct. at 1734 (“While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized

to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 18.

B. Analysis

*Claim 180*

Claim 180 depends on claim 179 (discussed *supra*). All that the Examiner has said with regard to the unpatentability of claim 180 is: “With respect to claim 180, [sic, it] further recites well known execution information and process of an offer.” Answer 6. Claim 180 in fact further limits claim 179 such that the data item concerning the first offer is selected from a group consisting of thirty identifiers, indications, times, information, price, and quantity. We do not see that the Examiner has addressed the claimed subject matter. Nor has the Examiner articulated an apparent reason with logical underpinning for determining the obviousness of the claimed subject matter. We find that the Examiner has failed to present a *prima facie* case of obviousness.

*Claims 191-195, 197, 198, 200-202*

Each of the independent claims 191 and 197 requires “publishing a first data packet that comprises the first identifier and a first data item, the first data item concerning” the first offer. The Examiner argues that Adams shows “publishing a first data packet that comprises the first identifier and a first data item, the first data item concerning the first offer (col. 12, lines 51-62)” Answer 7. We have reviewed the passage in Adams at col. 12, lines 51-62. We do not find there any disclosure

about publishing. Nor has the Examiner articulated an apparent reason with logical underpinning for determining the obviousness of the claimed subject matter. We find that the Examiner has failed to present a prima facie case of obviousness.

*Rejection of claims 177 and 178 are rejected under 35 U.S.C. § 103(a) as unpatentable over Adams in view of Hauser.*

Except for the limitation that the reply comprises a digital signature, for which Hauser has been applied, the Examiner relies on Adams to show as known the subject matter of claims 177 and 178. Answer 8. Claim 177 includes the limitations of “associating a first offer to buy or to sell the traded item with a first identifier” and “receiving request for information where the request includes the first identifier.” Since these limitations are also included in claim 169, the Examiner is presumably relying on the same passage in col. 10, lines 1-15 and col. 12, lines 1-9 of Adams that was relied upon to show that Adams anticipated the subject matter of claim 169. See *supra*. Claim 178 is the apparatus claim counterpart to method claim 177.

According to our review of col. 10, lines 1-15 and col. 12, lines 1-9, Adams fails to expressly or inherently describe a request for information with an identifier. See *supra*. Otherwise, the Examiner does not articulate an apparent reason with logical underpinning in reaching a determination of the obviousness of the claimed subject matter. Accordingly, we find that the Examiner has failed to present a prima facie case of obviousness.

### CONCLUSIONS OF LAW

We conclude the Appellant has failed to show that the Examiner erred in rejecting claim 196 as being directed to non-statutory subject matter in violation of 35 U.S.C. § 101 and claims 177 and 178 under 35 U.S.C. § 112, second paragraph, as being indefinite.

We conclude that the Appellant has shown that the Examiner erred in rejecting claims 169-171, 173-177, 179, 182-195, and 197-208 as being directed to non-statutory subject matter in violation of 35 U.S.C. § 101; claims 169, 173, 179, 182, 184, 185, 187, 191, 197, 203, and 204 under 35 U.S.C. § 112, second paragraph, as being indefinite; claims 169-176, 179, 181, and 184 under 35 U.S.C. § 102(b) as being anticipated by Adams; claims 180, 191-195, 197, 198, and 200-202 under 35 U.S.C. § 103(a) as being unpatentable over Adams and, claims 177 and 178 under 35 U.S.C. § 103(a) as being unpatentable over Adams in view of Hauser.

### DECISION

The decisions of the Examiner to reject claim 196 as being directed to non-statutory subject matter in violation of 35 U.S.C. § 101 and claims 177 and 178 under 35 U.S.C. § 112, second paragraph, as being indefinite, are affirmed.

The decisions of the Examiner to reject claims 169-171, 173-177, 179, 182-195, 197-208 as being directed to non-statutory subject matter in violation of 35 U.S.C. § 101; claims 169, 173, 179, 182, 184, 185, 187, 191, 197, 203, and 204

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under 35 U.S.C. § 112, second paragraph, as being indefinite; claims 169-176, 179, 181, and 184 under 35 U.S.C. § 102(b) as being anticipated by Adams; claims 180, 191-195, 197, 198, and 200-202 under 35 U.S.C. § 103(a) as being unpatentable over Adams and, claims 177 and 178 under 35 U.S.C. § 103(a) as being unpatentable over Adams in view of Hauser, are reversed.

Accordingly, the decision of the Examiner to reject claims 169-208 is affirmed-in-part.

AFFIRMED-IN-PART

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